

REMARKS

A. INTRODUCTION

Claims 70-79 are pending and rejected.

Upon entry of this Amendment:

- Claims 70-75, 78, 79 and 92-111 will be pending
- Claims 70, 73, 78 and 79 will be amended
- Claims 92-111 will be added
- Claims 76 and 77 will be cancelled without prejudice
- Claims 70, 73, 78, 79, 110 and 111 will be the only independent claims
- The Specification will be amended to correct some information about referenced applications and to provide information about three related child applications.

B. REQUEST FOR CONTINUED EXAMINATION

This paper is being filed in response to an Office Action mailed March 13, 2009. A Request for Continued Examination (RCE), along with the appropriate fee, is being filed concurrently to ensure consideration of these remarks.

C. SECTION 102(A) REJECTION

Claims 70-79 stand rejected under 35 U.S.C. 102(a) as being anticipated by Spector (U.S. Patent No. 5,870,718). We respectfully traverse the Examiner's Section 102(a) rejection.

With respect to Claim 72, the Office Action acknowledges that Spector does not expressly disclose *receiving an indication of a gift certificate redemption; and updating stored account data to reflect the redemption*, but further states

these steps would be inherent to receive some type of indication that the gift certificate has been redeemed and the stored account data would automatically be updated to reflect the amount of the redemption

[page 3]. Applicants disagree that any such teaching is "inherent" in Spector. The Examiner does not identify any evidence in Spector, or any extrinsic evidence, that would support the finding that such features must be necessarily present, and not merely possibly present in Spector. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d

1955, 1957 (Fed. Cir. 1993). See MPEP 2112. Accordingly, the Examiner has not established by substantial evidence that such features are taught by Spector, and no prima facie case of anticipation has been established for Claim 72 or Claim 75 for at least this reason.

On page 5 of the Office Action, the Examiner states:

the Specification on page 6, line 10 and page 10, line 3 recites “corresponding” and “a certificate identifier linked to an account identifier” is not found in Applicants’ Specification

Applicants traverse the Examiner’s reading of the Specification. Page 10, lines 3-6, state (emphasis added):

Credit card issuer 102 assigns a corresponding certificate identifier which may be used to identify the certificate and the associated credit card account. Accordingly, **the certificate identifier is an alias identifier which provides an indirect link to the credit card account** of credit card holder 104.

Page 14, lines 1-4 state (emphasis added):

Each record of certificate table 500 defines the parameters of a certificate and provides a **link to the account identifier of the credit card or other financial account** from which funds will be drawn to back the gift certificate.

Page 26, originally filed claim 2 states: “The method of claim 1 wherein said account identifier is linked to said certificate identifier.” Accordingly, Applicants submit that a certificate identifier linked to an account identifier is found in Applicant’s Specification, and request that the Examiner withdraw any findings to the contrary.

The Examiner asserts at pages 5-6 of the Office Action:

it is interpreted that the gift certificate has data printed on the certificate with a certificate identifier on it as shown in Fig. 2 and the gift certificate paid for by a credit card links the gift certificate identifier to an account identifier because a credit card is issued by a bank or financial institution. Therefore, the certificate identifier is different from the account identifier.

Applicants respectfully disagree with this interpretation, which the Examiner bases solely on Fig. 2 and the indication that a gift certificate may be paid for by a credit card in Spector. There is no teaching in Spector that remotely suggests the Examiner’s interpretation, and no indication that any link exists in Spector between a certificate identifier and an account identifier, or any motivation for providing for such a link. Specifically, there is no hint, in the brief mention in Spector of paying for a gift certificate by credit card over the Internet (Column 3, lines 20-27), that

the certificate identifier in Fig. 2 is in any way linked to a particular financial account. To the extent the Examiner is relying upon personal knowledge or other evidentiary sources, Applicants respectfully request that the Examiner provide an affidavit attesting to the scope and source of the personal knowledge, or provide a reference demonstrating substantial evidence that (1) such a feature was known and (2) it would have been desirable to modify Spector to provide for such a feature. Absent supporting evidence, the present Office Action fails to establish a prima facie case of anticipation or obviousness for at least the reason that the Examiner's "interpretation" is not supported by Spector.

Applicants, however, have elected at this point to amend independent Claims 70, 73, 78 and 79. Applicant reserve the right and intend to pursue the subject matter of the amended claims as they stood prior to this Amendment. The changes to Claim 70 are representative and provide for:

70. (CURRENTLY AMENDED) A method comprising:
accessing stored account data associated with a financial account, the stored account data including an account identifier that is associated with the financial account;
determining generating, by a computer, a certificate identifier corresponding to the financial account ~~linked to an account identifier that is associated with a financial account~~, said certificate identifier being different from said account identifier;
assigning in a database, by the computer, the corresponding certificate identifier to the financial account for identifying the financial account;
producing a gift certificate including thereon said corresponding certificate identifier, said gift certificate not including said account identifier; and
distributing said gift certificate to an owner of said financial account.

No new matter has been added. See, e.g., page 10, lines 3-6; page 14, lines 1-4; Claim 1 as originally filed.

Spector does not reach or suggest determining or generating a certificate identifier corresponding to a financial account. Further, Spector is devoid of any hint of assigning (in a database) a certificate identifier to a financial account, and of any use or advantage of establishing such a relationship, much less for identifying the financial account.

Claims 76 and 77 have been cancelled without prejudice. The preambles of Claims 78 and 79 have been amended.

For at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the Section 102(a) rejections of Claims 70-75, 78 and 79.

D. ADDITIONAL COMMENTS

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference(s) teach or suggest, the Examiner's interpretation of claimed subject matter or the Specification, is not to be understood as agreement with the Examiner. As the Examiner has not established an un rebuttable prima facie case for rejecting any of the claims as pending, for at least the reasons stated in this paper, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in this paper should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

E. NEWLY-ADDED CLAIMS 92-111 ARE PATENTABLE OVER SPECTOR

Newly-added Claims 92-111 are patentable over Spector for at least the reasons presented herein. No new matter has been added. In particular, dependent Claims 92-109 depend from one of Claims 70 or 73, and are submitted as allowable for at least the same reasons as those discussed above with respect to those independent claims.

Further, Claims 92 and 100 further provide for wherein the assigned corresponding certificate identifier is linked to the financial account, which, as discussed above, is not taught or suggested by Spector.

Further, Claims 93 and 101 provide for wherein producing comprises: applying a user-alterable means for obstructing the visibility of said corresponding certificate identifier, which is not taught or suggested by Spector.

Further, Claims 108 and 109 provide for wherein the computer comprises a credit card issuer central controller, which is not taught or suggested by Spector.

Claims 110 and 111 are directed to apparatus comprising computer-readable storage media including programming instructions allowing for functionality similar to that of Claims 70 and 73, respectively, and are submitted as allowable for at least the reasons stated above with respect to Claims 70 and 73.

For at least the reasons stated herein, we respectfully submit that new Claims 92-110 contain allowable subject matter.

F. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES

We understand that a two-month extension of time to respond to the Office Action is necessary.

Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

Charge: \$490.00
Deposit Account: 50-0271
Order No.: 96-140-C1

Please credit any overpayment to the same account.

G. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 438-6408 or via electronic mail at mdowns@finchamdowns.com.

Respectfully submitted,

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Date

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